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Effective Date: June 1, 2005  
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**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
WASTE DISCHARGE PERMIT No. WA0037265**

State of Washington  
DEPARTMENT OF ECOLOGY  
Olympia, Washington 98504-7600

In compliance with the provisions of  
The State of Washington Water Pollution Control Law  
Chapter 90.48 Revised Code of Washington  
and  
The Federal Water Pollution Control Act  
(The Clean Water Act)  
Title 33 United States Code, Section 1251 et seq.

**Pioneer Americas, LLC  
605 Alexander Avenue  
Tacoma, Washington 98421-4209**

<u>Facility Location:</u> 605 Alexander Avenue Tacoma, WA 98421	<u>Receiving Water:</u> Hylebos Waterway
<u>Water Body I.D. No.:</u> WA-10-0020	<u>Discharge Location:</u> Latitude: 47° 16' 48" N Longitude: 122° 24' 11" W
<u>Industry Type:</u> SIC 4491 Marine Cargo Handling SIC 2819 Other Industrial Inorganic Chemicals	

is authorized to discharge in accordance with the special and general conditions which follow.

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Southwest Region Manager  
Water Quality Program  
Washington State Department of Ecology

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### SUMMARY OF PERMIT REPORT SUBMITTALS

Refer to the Special and General Conditions of this permit for additional submittal requirements.

Permit Section	Submittal	Frequency	First Submittal Date
S2.A	Discharge Monitoring Report	Monthly Once/2 Months Quarterly	June 15, 2005 June 15, 2005 October 15, 2005
S2.E	Noncompliance Notification	As necessary	Within 30 days of becoming aware of violation
S3.A	Operations and Maintenance Manual		January 2, 2009 if no modifications have been submitted during this permit cycle
S3.A	Modified Operations and Maintenance Manual or Review Confirmation Letter	Annually	January 2, 2006
S3.B	Reporting Bypasses	As necessary	
S4.C	Solid Waste Control Plan	1/permit cycle	January 2, 2009 if no modifications have been submitted during this permit cycle
S4.C	Modified Solid Waste Control Plan	As necessary	Within 30 days of modification
S5.	Spill Plan	1/permit cycle	January 2, 2009 if no modifications have been submitted during this permit cycle
S5.	Modified Spill Plan	As necessary	Within 30 days of modification
S6.A	Acute Toxicity Effluent Characterization Report (testing to be done once in the winter of 2006-2007 and once in the summer of 2007)	1/permit cycle,	January 2, 2009
S7.A	Chronic Toxicity Effluent Characterization Report (testing to be done once in the winter of 2006-2007 and once in the summer of 2007)	1/permit cycle	January 2, 2009
S8	Outfall Evaluation	1/permit cycle	January 2, 2009
S9.A1	Stormwater Pollution Prevention Plan	1/permit cycle	January 2, 2009
S9.A2	Stormwater Pollution Prevention Plan Modifications	As necessary	

Permit Section	Submittal	Frequency	First Submittal Date
S9.B2	Notification of Unpermitted non-stormwater to <i>Stormwater Drainage System</i>	As necessary	Within 30 days of discovery
G1	Notice of Change in Authorization	As necessary	Prior to, or with first submittal following change in authorization
G4	Permit Application for Substantive Changes to the Discharge	As necessary	At least 60 days prior to planned start of construction
G5	Engineering Report for Construction or Modification Activities	As necessary	At least 180 days prior to planned start of construction
G7	Application for Permit Renewal	1/permit cycle	January 2, 2009
G8	Notice of Permit Transfer	As necessary	Within 30 days of a transfer
G21	Reporting Anticipated Non-compliance	As necessary	At least 180 days prior to anticipated discharge
G22	Reporting Other Information	As necessary	

## SPECIAL CONDITIONS

### S1. MONITORING REQUIREMENTS AND DISCHARGE LIMITATIONS

#### A. Stormwater and Groundwater Treatment Effluent at the Outfall Mixing Box

Beginning on the effective date of this permit and lasting through the expiration date, the Permittee is authorized to discharge stormwater, groundwater treatment effluent, and non-contact cooling water as part of the groundwater treatment system at the outfall mixing box prior to discharge to the Hylebos Waterway (Outfall 001) subject to complying with the following monitoring requirements and limitations:

There shall be no discharge of floating solids or visible foam in other than trace amounts. Sanitary waste shall be discharged to the City of Tacoma sanitary sewer system. The flow data submitted in the application is the limit for the purposes of setting permit fees. Any flows higher than reported on the permit application must be reported to the Department of Ecology (Department).

EFFLUENT LIMITATIONS: OUTFALL #001					
Parameter	Category	Average Monthly Limit <sup>a</sup>	Maximum Daily Limit <sup>b</sup>	Minimum Sampling Frequency	Sample Type
Flow	Combined Effluent Discharge	Report	Report	Monthly	Metered
Oil and Grease (visual)	Combined Effluent Discharge	No visible sheen		Monthly	Visual Inspection
TSS (mg/L) <sup>j</sup>	Combined Effluent Discharge	20	30	Monthly	Composite
Copper (µg/L) <sup>c</sup>	Combined Effluent Discharge	N/A	Report	Quarterly <sup>i</sup>	Composite
Zinc (µg/L) <sup>c</sup>	Combined Effluent Discharge	N/A	Report	Quarterly <sup>i</sup>	Composite
Temperature (°C)	Combined Effluent Discharge	N/A	32.0 <sup>d</sup> , 24.0 <sup>e</sup>	Monthly	Grab
pH (S.U.) <sup>f, g, h</sup>	Combined Effluent Discharge	Between 6.0 to 9.0		Continuous	Metered

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<u>Acute Whole Effluent Toxicity Testing</u> – testing to be done once in the winter of 2006-2007 and once in the summer of 2007
<u>Chronic Whole Effluent Toxicity Testing</u> – testing to be done once in the winter of 2006-2007 and once in the summer of 2007
<sup>a</sup> . The average monthly effluent limitation is defined as the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
<sup>b</sup> The maximum daily effluent limitation is defined as the highest allowable daily discharge. The daily discharge is the average measurement of the pollutant over the day.
<sup>c</sup> . Measured as total recoverable metals.
<sup>d</sup> . When the receiving water (sea water intake) temperature is less than 18.5 °C.
<sup>e</sup> . When the receiving water (sea water intake) temperature is 18.5 °C or greater.
<sup>f</sup> . The total time during which the pH values are outside the range of 6.0 to 9.0 shall not exceed one percent of the operating month. Report this on the DMR form under the “Comments Section”.
<sup>g</sup> . Individual excursions outside the range of 6.0 to 9.0 and within the range of 3.5 to 10.5 shall not exceed 60 minutes. Any excursion below 3.5 or above 10.5 shall be considered a permit violation.
<sup>h</sup> . An excursion is defined as an unintentional and temporary incident in which the pH value of the discharge wastewater exceeds the range of 6.0 to 9.0.
<sup>i</sup> . Quarterly is defined as: January – March; April – June; July – September; and October – December. Report results on the March, June, September, and December DMRs.
<sup>j</sup> . The Permittee shall not be considered in violation of the permit if it can be demonstrated that the effluent concentration is less than, or equal to the intake concentration.

B. Groundwater Treatment System Effluent

Beginning on the effective date of this permit and lasting through the expiration date, the Permittee is authorized to convey treated groundwater treatment system effluent (Compliance Sampling Point (C.S.P.) #002) to the outfall mixing box subject to complying with the following limitations:

EFFLUENT LIMITATIONS: C.S.P. #002			
Parameter	Maximum Daily Limit	Minimum Sampling Frequency	Sample Type
Flow (gpd)	Report	Monthly	Metered
Chloroform (µg/L)	75	Once/2 Months <sup>1</sup>	Grab
Carbon Tetrachloride (µg/L)	10	Once/2 Months <sup>1</sup>	Grab
1,1-Dichloroethylene (µg/L)	5	Once/2 Months <sup>1</sup>	Grab
1,1,2-Trichloroethane (µg/L)	5	Once/2 Months <sup>1</sup>	Grab
1,1,2,2-Tetrachloroethane (µg/L)	180	Once/2 Months <sup>1</sup>	Grab

<b>EFFLUENT LIMITATIONS: C.S.P. #002</b>			
<b>Parameter</b>	<b>Maximum Daily Limit</b>	<b>Minimum Sampling Frequency</b>	<b>Sample Type</b>
Trichloroethylene (µg/L)	440	Once/2 Months <sup>1</sup>	Grab
Tetrachloroethylene (µg/L)	50	Once/2 Months <sup>1</sup>	Grab
Methylene Chloride (µg/L)	185	Once/2 Months <sup>1</sup>	Grab
<sup>1</sup> Once/2 Months is defined as: May-June; July-August; September – October; November – December, and January – February. Report on the June, August, October, and December and February DMRs			

C. Receiving Water Influent

Beginning on the effective date of this permit and lasting through the expiration date, the Permittee shall sample the influent at Compliance Sampling Point (C.S.P.) #003 for the following parameters:

<b>RECEIVING WATER MONITORING: C.S.P. #003</b>					
<b>Parameter</b>	<b>Category</b>	<b>Average Monthly Limit<sup>a</sup></b>	<b>Maximum Daily Limit<sup>b</sup></b>	<b>Minimum Sampling Frequency</b>	<b>Sample Type</b>
Flow (gpd)	Sea Water Intake	Report	Report	Monthly	Metered
Temperature (°C)	Sea Water Intake	Report	Report	Monthly	Metered
Total Suspended Solids	Sea Water Intake	Report	Report	Monthly	Composite
<sup>a</sup> The average monthly effluent limitation is defined as the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.					
<sup>b</sup> The maximum daily effluent limitation is defined as the highest allowable daily discharge. The daily discharge is the average measurement of the pollutant over the day.					

D. Mixing Zone Descriptions

The maximum boundaries of the mixing zones are defined as follows:

MIXING ZONE FOR STORMWATER AND GROUNDWATER TREATMENT  
EFFLUENT DISCHARGED FROM OUTFALL No. 001

1. In the vertical plane, from the receiving water surface to the bottom.
2. In the horizontal plane, 200 feet from each diffuser port.

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The acute dilution factor is estimated to be 4 and the chronic dilution factor to be 15, based on an effluent mixing study conducted by the Permittee in August 1993.

E. Sampling and Analytical Procedures

Samples and measurements taken to meet the requirements of this permit shall be representative of the volume and nature of the monitored parameters, including representative sampling of any unusual discharge or discharge condition, including bypasses, upsets, and maintenance-related conditions affecting effluent quality.

Sampling and analytical methods used to meet the monitoring requirements specified in this permit shall conform to the latest revision of the *Guidelines Establishing Test Procedures for the Analysis of Pollutants* contained in 40 Code of Federal Regulations (CFR) Part 136 or to the latest revision of *Standard Methods for the Examination of Water and Wastewater* (APHA), unless otherwise specified in this permit or approved in writing by the Department.

F. Flow Measurement

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the quantity of monitored flows. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements are consistent with the accepted industry standard for that type of device. Frequency of calibration shall be in conformance with manufacturer's recommendations and at a minimum frequency of at least one calibration per year. Calibration records shall be maintained for at least three years.

G. Laboratory Accreditation

All monitoring data required by the Department shall be prepared by a laboratory registered or accredited under the provisions of, *Accreditation of Environmental Laboratories*, Chapter 173-50 Washington Administrative Code (WAC). Flow, temperature, settleable solids, conductivity, pH, turbidity, and internal process control parameters are exempt from this requirement. Conductivity and pH shall be accredited if the laboratory must otherwise be registered or accredited. The Department exempts crops, soils, and hazardous waste data from this requirement pending accreditation of laboratories for analysis of these media.

## **S2. REPORTING AND RECORDKEEPING REQUIREMENTS**

The Permittee shall monitor and report in accordance with the following conditions. The falsification of information submitted to the Department shall constitute a violation of the terms and conditions of this permit.

A. Reporting

The first monitoring period begins on the effective date of the permit. Monitoring results shall be submitted monthly. Monitoring results obtained during the previous monitoring

period shall be reported on the forms as provided, or otherwise approved, by the Department, and be postmarked or received no later than the 15th day of the month following the completed monitoring period, unless otherwise specified in this permit. The report(s) shall be sent to the Industrial Permit Coordinator, Department of Ecology, Southwest Region – Water Quality, P.O. Box 47775, Olympia, Washington 98504-7775.

All laboratory reports providing data for organic and metal parameters shall include the following information: sampling date, sample location, date of analysis, parameter name, CAS number, analytical method/ number, method detection limit (MDL), laboratory practical quantitation limit (PQL), reporting units, and concentration detected.

Discharge Monitoring Report forms must be submitted whether or not the facility was discharging. If there was no discharge during a given monitoring period, submit the form as required with the box marked "No Discharge" checked.

B. Records Retention

The Permittee shall retain records of all monitoring information for a minimum of three years. Such information shall include all calibration and maintenance records and all original recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Permittee or when requested by the Director.

C. Recording of Results

For each measurement or sample taken, the Permittee shall record the following information: (1) the date, exact place, method, and time of sampling or measurement; (2) the individual who performed the sampling or measurement; (3) the dates the analyses were performed; (4) the individual who performed the analyses; (5) the analytical techniques or methods used; and (6) the results of all analyses.

D. Additional Monitoring by the Permittee

If the Permittee monitors any pollutant more frequently than required by this permit using test procedures specified by Condition S1 of this permit, then the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Permittee's DMR.

E. Noncompliance Notification

In the event the Permittee is unable to comply with any of the terms and conditions of this permit due to any cause, the Permittee shall:

1. Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the noncompliance, correct the problem and, if applicable, repeat sampling and analysis of any noncompliance immediately and submit the results to the Department within 30 days after becoming aware of the violation.
2. Immediately notify the Department of the failure to comply.

3. Submit a detailed written report to the Department within 30 days (five days for upsets and bypasses), unless requested earlier by the Department. The report shall contain a description of the noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

Compliance with these requirements does not relieve the Permittee from responsibility to maintain continuous compliance with the terms and conditions of this permit or the resulting liability for failure to comply.

F. Maintaining a Copy of This Permit

A copy of this permit must be kept at the facility and be made available upon request to the Department inspectors.

**S3. OPERATION AND MAINTENANCE**

The Permittee shall, at all times, properly operate and maintain all facilities or systems of treatment and control (and related appurtenances) which are installed to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems, which are installed by a Permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

A. Operations and Maintenance (O&M) Manual

The O&M Manual shall be reviewed by the Permittee at least annually and the Permittee shall confirm this review by letter to the Department. Substantial changes or updates to the O&M Manual shall be submitted to the Department whenever they are incorporated into the manual. If no modifications to the O&M Manual have been made during this permit cycle, then the Permittee shall review and update the O&M Manual and submit it to the Department no later than January 2, 2009.

The approved Operations and Maintenance Manual shall be kept available at the permitted facility and all operators shall follow the instructions and procedures of this manual.

In addition to the requirements of WAC 173-240-150(1) and (2), the O&M Manual shall include:

1. Emergency procedures for plant shutdown and cleanup in event of wastewater system upset or failure.
2. Wastewater system maintenance procedures that contribute to the generation of process wastewater

3. Any directions to maintenance staff when cleaning, or maintaining other equipment or performing other tasks which are necessary to protect the operation of the wastewater system (e.g. defining maximum allowable discharge rate for draining a tank, blocking all floor drains before beginning the overhaul of a stationary engine.)

The following information shall be summarized in the initial chapter of the O&M Manual. This chapter shall be entitled the "Treatment System Operating Plan." For the purposes of this NPDES permit, a Treatment System Operating Plan (TSOP) is a concise summary of specifically defined elements of the O&M Manual. The TSOP shall not conflict with the O&M Manual and shall include the following information:

1. A baseline operating condition, which describes the operating parameters and procedures, used to meet the effluent limitations of S1 at the production levels used in developing these limitations.
2. In the event of production rates, which are below the baseline levels used to establish these limitations, the plan shall describe the operating procedures and conditions needed to maintain design treatment efficiency. The monitoring and reporting shall be described in the plan.
3. In the event of an upset, due to plant maintenance activities, severe stormwater events, start ups or shut downs, or other causes, the plan shall describe the operating procedures and conditions employed to mitigate the upset. The monitoring and reporting shall be described in the plan.
4. A description of any regularly scheduled maintenance or repair activities at the facility which would affect the volume or character of the wastes discharged to the wastewater treatment system and a plan for monitoring and treating/controlling the discharge of maintenance-related materials (such as cleaners, degreasers, solvents, etc.).

The TSOP shall be updated and submitted, as necessary, to include requirements for any major modifications of the treatment system.

B. Bypass Procedures

Bypass, which is the intentional diversion of waste streams from any portion of a treatment facility, is prohibited, and the Department may take enforcement action against a Permittee for bypass unless one of the following circumstances (1, 2, or 3) is applicable.

1. Bypass for Essential Maintenance without the Potential to Cause Violation of Permit Limits or Conditions.

Bypass is authorized if it is for essential maintenance and does not have the potential to cause violations of limitations or other conditions of this permit, or adversely impact public health as determined by the Department prior to the bypass. The Permittee shall submit prior notice, if possible, at least 10 days before the date of the bypass.

2. Bypass Which is Unavoidable, Unanticipated, and Results in Noncompliance of this Permit.

This bypass is permitted only if:

- a. Bypass is unavoidable to prevent loss of life, personal injury, or severe property damage. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass.
- b. There are no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, stopping production, maintenance during normal periods of equipment downtime (but not if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance), or transport of untreated wastes to another treatment facility.
- c. The Department is properly notified of the bypass as required in Condition S2E of this permit.

3. Bypass which is Anticipated and has the Potential to Result in Noncompliance of this Permit.

The Permittee shall notify the Department at least 30 days before the planned date of bypass. The notice shall contain (1) a description of the bypass and its cause; (2) an analysis of all known alternatives which would eliminate, reduce, or mitigate the need for bypassing; (3) a cost-effectiveness analysis of alternatives including comparative resource damage assessment; (4) the minimum and maximum duration of bypass under each alternative; (5) a recommendation as to the preferred alternative for conducting the bypass; (6) the projected date of bypass initiation; (7) a statement of compliance with State Environmental Policy Act (SEPA); (8) a request for modification of water quality standards as provided for in WAC 173-201A-110, if an exceedance of any water quality standard is anticipated; and (9) steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.

For probable construction bypasses, the need to bypass is to be identified as early in the planning process as possible. The analysis required above shall be considered during preparation of the engineering report or facilities plan and plans and specifications and shall be included to the extent practical. In cases where the probable need to bypass is determined early, continued analysis is necessary up to and including the construction period in an effort to minimize or eliminate the bypass.

The Department will consider the following prior to issuing an administrative order for this type bypass:

- a. If the bypass is necessary to perform construction or maintenance-related activities essential to meet the requirements of this permit.
- b. If there are feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, stopping production, maintenance during normal periods of equipment down time, or transport of untreated wastes to another treatment facility.
- c. If the bypass is planned and scheduled to minimize adverse effects on the public and the environment.

After consideration of the above and the adverse effects of the proposed bypass and any other relevant factors, the Department will approve or deny the request. The public shall be notified and given an opportunity to comment on bypass incidents of significant duration, to the extent feasible. Approval of a request to bypass will be by administrative order issued by the Department under Revised Code of Washington (RCW) 90.48.120.

C. Duty to Mitigate

The Permittee is required to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

**S4. SOLID WASTE DISPOSAL**

A. Solid Waste Handling

The Permittee shall handle and dispose of all solid waste material in such a manner as to prevent its entry into state ground or surface water.

B. Leachate

The Permittee shall not allow leachate from its solid waste material to enter state waters without providing all known, available and reasonable methods of treatment, nor allow such leachate to cause violations of the State Surface Water Quality Standards, Chapter 173-201A WAC, or the State Ground Water Quality Standards, Chapter 173-200 WAC. The Permittee shall apply for a permit or permit modification as may be required for such discharges to state ground or surface waters.

C. Solid Waste Control Plan

The Permittee shall review the existing Solid Waste Control Plan at least annually and update the Plan as needed. Changes to the Plan shall be sent to the Department within 30 days of the modification. The Plan and any supplements shall be followed throughout the term of the Permit. If no modifications to the Plan have been made during this permit cycle, then the Permittee shall review and update the Solid Waste Control Plan and submit it to the Department no later than January 2, 2009.

**S5. SPILL PLAN**

The Permittee shall review the existing Spill Plan at least annually and update the Spill Plan as needed. Changes to the Plan shall be sent to the Department within 30 days of the modification. The Plan and any supplements shall be followed throughout the term of the Permit. If no modifications to the spill plan have been made during this permit cycle, then the Permittee shall review and update the Spill Plan and submit it to the Department no later than January 2, 2009.

Plans and manuals required by 40 CFR Part 112, contingency plans required by Chapter 173-303 WAC, or other plans required by other agencies which meet the intent of this Section may be submitted.

**S6. ACUTE TOXICITY**

**A. Effluent Characterization**

The Permittee shall conduct acute toxicity testing on the final effluent to determine the presence and amount of acute (lethal) toxicity. The two acute toxicity tests listed below shall be conducted on each sample taken for effluent characterization.

The Permittee shall test final effluent once in the winter of 2006-2007 and once in the summer of 2007 prior to submission of the application for permit renewal. All species used in the initial acute effluent characterization or substitutes approved by the Department shall be used.

A final effluent characterization summary report shall be submitted to the Department no later than January 2, 2009. This summary report shall meet the requirements provided in Special Condition S6.B.1 (shown below) and shall include a tabulated summary of the individual test results and any information on sources of toxicity, toxicity source control, correlation with effluent data, and toxicity treatability which is developed during the period of testing.

Acute toxicity testing shall follow protocols, monitoring requirements, and quality assurance/quality control procedures specified in this section. A dilution series consisting of a minimum of five concentrations and a control shall be used to estimate the concentration lethal to 50 percent of the organisms ( $LC_{50}$ ). The percent survival in 100 percent effluent shall also be reported.

Acute toxicity tests shall be conducted with the following species and protocols:

1. Topsmelt, *Atherinops affinis* (96 hour static-renewal test, method: EPA/600/4-90/027F).
2. Mysid shrimp, *Americamysis bahia* (formerly *Mysidopsis bahia*) (48 hour static test, method: EPA/600/4-90/027F).

B. Sampling and Reporting Requirements

1. All reports for effluent characterization or compliance monitoring shall be submitted in accordance with the most recent version of Department of Ecology Publication # WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria* in regards to format and content. Reports shall contain bench sheets and reference toxicant results for test methods. If the lab provides the toxicity test data on floppy disk for electronic entry into the Department's database, then the Permittee shall send the disk to the Department along with the test report, bench sheets, and reference toxicant results.
2. Testing shall be conducted on 24-hour composite effluent samples. Composite samples taken for toxicity testing shall be cooled to 4 degrees Celsius while being collected and shall be sent to the lab immediately upon completion. The lab shall begin the toxicity testing as soon as possible but no later than 36 hours after sampling was ended. The lab shall store all samples at 4°C in the dark from receipt until completion of the test.
3. All samples and test solutions for toxicity testing shall have water quality measurements as specified in Department of Ecology Publication #WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria* or most recent version thereof.
4. All toxicity tests shall meet quality assurance criteria and test conditions in the most recent versions of the EPA manual listed in subsection A. and the Department of Ecology Publication #WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria*. If test results are determined to be invalid or anomalous by the Department, testing shall be repeated with freshly collected effluent.
5. Control water and dilution water shall be laboratory water meeting the requirements of the EPA manual listed in subsection A or pristine natural water of sufficient quality for good control performance.
6. The whole effluent toxicity tests shall be run on an unmodified sample of final effluent.
7. Permittees that potentially have ammonia and/or chlorine in the effluent shall measure total ammonia and/or chlorine from a sample collected for toxicity testing. All samples taken for toxicity testing shall have pH, total alkalinity, total hardness, dissolved oxygen, and conductivity or salinity measured prior to test initiation.
8. The Permittee may choose to conduct a full dilution series test during compliance monitoring in order to determine dose response. In this case, the series must have a minimum of five effluent concentrations and a control. The series of concentrations must include the ACEC.



9. All whole effluent toxicity tests, effluent screening tests, and rapid screening tests that involve hypothesis testing and do not comply with the acute statistical power standard of 29 percent as defined in WAC 173-205-020 must be repeated on a fresh sample with an increased number of replicates to increase the power.

## **S7. CHRONIC TOXICITY**

### **A. Effluent Characterization**

The Permittee shall conduct chronic toxicity testing on the final effluent. The two chronic toxicity tests listed below shall be conducted on each sample taken for effluent characterization.

The Permittee shall test final effluent once in the winter of 2006-2007 and once in the summer of 2007 prior to submission of the application for permit renewal. All species used in the initial chronic effluent characterization or substitutes approved by the Department shall be used.

A final effluent characterization summary report shall be submitted to the Department no later than January 2, 2009. This summary report shall meet the requirements provided in Special Condition S7.B.1 (shown below) and shall include a tabulated summary of the individual test results and any information on sources of toxicity, toxicity source control, correlation with effluent data, and toxicity treatability which is developed during the period of testing.

The Permittee shall conduct chronic toxicity testing during effluent characterization on a series of at least five concentrations of effluent in order to determine appropriate point estimates. This series of dilutions shall include the ACEC. The Permittee shall compare the ACEC to the control using hypothesis testing at the 0.05 level of significance as described in Appendix H, EPA/600/4-89/001. The ACEC is equal to 25 percent effluent.

### **B. Sampling and Reporting Requirements**

1. All reports for effluent characterization or compliance monitoring shall be submitted in accordance with the most recent version of Department of Ecology Publication #WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria* in regards to format and content. Reports shall contain bench sheets and reference toxicant results for test methods. If the lab provides the toxicity test data on floppy disk for electronic entry into the Department's database, then the Permittee shall send the disk to the Department along with the test report, bench sheets, and reference toxicant results.
2. Testing shall be conducted on 24-hour composite effluent samples. Composite samples taken for toxicity testing shall be cooled to 4 degrees Celsius while being collected and shall be sent to the lab immediately upon completion. The lab shall begin the toxicity testing as soon as possible but no later than 36 hours after sampling was ended. The lab shall store all samples at 4°C in the dark from receipt until completion of the test.

3. All samples and test solutions for toxicity testing shall have water quality measurements as specified in Department of Ecology Publication #WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria* or most recent version thereof.
4. All toxicity tests shall meet quality assurance criteria and test conditions in the most recent versions of the EPA manual listed in subsection A. and the Department of Ecology Publication #WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria*. If test results are determined to be invalid or anomalous by the Department, testing shall be repeated with freshly collected effluent.
5. Control water and dilution water shall be laboratory water meeting the requirements of the EPA manual listed in subsection A or pristine natural water of sufficient quality for good control performance.
6. The whole effluent toxicity tests shall be run on an unmodified sample of final effluent.
7. Permittees that potentially have ammonia and/or chlorine in the effluent shall measure total ammonia and/or chlorine from a sample collected for toxicity testing. All samples taken for toxicity testing shall have pH, total alkalinity, total hardness, dissolved oxygen, and conductivity or salinity measured prior to test initiation.
8. The Permittee may choose to conduct a full dilution series test during compliance monitoring in order to determine dose response. In this case, the series must have a minimum of five effluent concentrations and a control. The series of concentrations must include the ACEC and the CCEC.
9. All whole effluent toxicity tests, effluent screening tests, and rapid screening tests that involve hypothesis testing, and do not comply with the chronic statistical power standard of 39 percent as defined in WAC 173-205-020, must be repeated on a fresh sample with an increased number of replicates to increase the power.

#### **S8.     OUTFALL EVALUATION**

The Permittee shall inspect, once per permit cycle, the submerged portion of the outfall line and diffuser to document its integrity and continued function. If conditions allow for a photographic verification, it shall be included in the report. The inspection report shall be submitted to the Department along with application for permit renewal.

#### **S9.     STORMWATER POLLUTION PREVENTION PLAN (SWPPP)**

The definitions of terms used in this section are provided in the guidance document entitled *Guidance Manual for Preparing/Updating a Stormwater Pollution Prevention Plan for Industrial Facilities* (Ecology Publication No. 04-10-030).

A. General Requirements

1. Submission, Retention, and Availability:

The Permittee shall have submitted an up-to-date copy of the SWPPP to the Department no later than January 2, 2009. The SWPPP and all of its modifications shall be signed in accordance with General Condition G1. Retain the SWPPP on-site or within reasonable access to the site and make it available to the Department upon request.

2. Modifications:

The Permittee shall modify the SWPPP whenever there is a change in design, construction, operation or maintenance, which causes the SWPPP to be less effective in controlling the pollutants. Whenever the description of potential pollutant sources or the pollution prevention measures and controls identified in the SWPPP are inadequate, the SWPPP shall be modified, as appropriate, within 30 days of such determination. Any proposed modifications to the SWPPP shall be submitted to the Department at least 30 days in advance of implementing the proposed changes in the plan unless the Department approves immediate implementation. The Permittee shall provide for implementation of any modifications to the SWPPP in a timely manner.

3. The Permittee may incorporate applicable portions of plans prepared for other purposes. Plans or portions of plans incorporated into an SWPPP become enforceable requirements of this permit.

4. The Permittee shall keep current the SWPPP in accordance with the guidance provided in the *Guidance Manual for Preparing/Updating a Stormwater Pollution Prevention Plan for Industrial Facilities*. The plan shall contain the following elements:

- a. Assessment and description of existing and potential pollutant sources.
- b. A description of the operational BMPs.
- c. A description of selected source-control BMPs.
- d. When necessary, a description of the erosion and sediment control BMPs.
- e. When necessary, a description of the treatment BMPs.
- f. An implementation schedule.

B. Implementation

The Permittee shall conduct two inspections per year - one during the wet season (October 1 - April 30) and the other during the dry season (May 1 - September 30).

1. The wet season inspection shall be conducted during a rainfall event by personnel named in the Stormwater Pollution Prevention Plan (SWPPP) to verify that the description of potential pollutant sources required under this permit are accurate; the site map as required in the SWPPP has been updated or otherwise modified to reflect current conditions; and the controls to reduce pollutants in stormwater discharges associated with industrial activity identified in the SWPPP are being implemented and are adequate. The wet weather inspection shall include observations of the presence of floating materials, suspended solids, oil and grease, discolorations, turbidity, odor, etc. in the stormwater discharge(s).
2. Personnel named in the SWPPP shall conduct the dry season inspection. The dry season inspection shall determine the presence of unpermitted non-stormwater discharges such as domestic wastewater, noncontact cooling water, or process wastewater (including *leachate*) to the *stormwater drainage system*. If an unpermitted, non-stormwater discharge is discovered, the Permittee shall immediately notify the Department and submit a written report within 30 days of discovery.

C. Plan Evaluation

The Permittee shall evaluate whether measures to reduce pollutant loadings identified in the SWPPP are adequate and properly implemented in accordance with the terms of the permit or whether additional controls are needed. A record shall be maintained summarizing the results of inspections and include a certification, in accordance with Conditions S3.B and G1, that the facility is in compliance with the plan and in compliance with this permit. The record shall identify any incidents of noncompliance.

## GENERAL CONDITIONS

### G1. SIGNATORY REQUIREMENTS

All applications, reports, or information submitted to the Department shall be signed and certified.

- A. All permit applications shall be signed by either a responsible corporate officer of at least the level of vice president of a corporation, a general partner of a partnership, or the proprietor of a sole proprietorship.
- B. All reports required by this permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
  - 1. The authorization is made in writing by a person described above and submitted to the Department.
  - 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
- C. Changes to authorization. If an authorization under paragraph B.2 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph B.2 above must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.
- D. Certification. Any person signing a document under this section shall make the following certification:

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

**G2. RIGHT OF INSPECTION AND ENTRY**

The Permittee shall allow an authorized representative of the Department, upon the presentation of credentials and such other documents as may be required by law:

- A. To enter upon the premises where a discharge is located or where any records must be kept under the terms and conditions of this permit.
- B. To have access to and copy - at reasonable times and at reasonable cost - any records required to be kept under the terms and conditions of this permit.
- C. To inspect - at reasonable times - any facilities, equipment (including monitoring and control equipment), practices, methods, or operations regulated or required under this permit.
- D. To sample or monitor - at reasonable times - any substances or parameters at any location for purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act.

**G3. PERMIT ACTIONS**

This permit may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the Department's initiative. However, the permit may only be modified, revoked and reissued, or terminated for the reasons specified in 40 CFR 122.62, 122.64 or WAC 173-220-150 according to the procedures of 40 CFR 124.5.

- A. The following are causes for terminating this permit during its term, or for denying a permit renewal application:
  - 1. Violation of any permit term or condition.
  - 2. Obtaining a permit by misrepresentation or failure to disclose all relevant facts.
  - 3. A material change in quantity or type of waste disposal.
  - 4. A determination that the permitted activity endangers human health or the environment or contributes to water quality standards violations and can only be regulated to acceptable levels by permit modification or termination [40 CFR Part 122.64(3)].
  - 5. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit [40 CFR Part 122.64(4)].
  - 6. Nonpayment of fees assessed pursuant to RCW 90.48.465.
  - 7. Failure or refusal of the permittee to allow entry as required in RCW 90.48.090.
- B. The following are causes for modification but not revocation and reissuance except when the permittee requests or agrees:

1. A material change in the condition of the waters of the state.
  2. New information not available at the time of permit issuance that would have justified the application of different permit conditions.
  3. Material and substantial alterations or additions to the permitted facility or activities which occurred after this permit issuance.
  4. Promulgation of new or amended standards or regulations having a direct bearing upon permit conditions, or requiring permit revision.
  5. The Permittee has requested a modification based on other rationale meeting the criteria of 40 CFR Part 122.62.
  6. The Department has determined that good cause exists for modification of a compliance schedule, and the modification will not violate statutory deadlines.
  7. Incorporation of an approved local pretreatment program into a municipality's permit.
- C. The following are causes for modification or alternatively revocation and reissuance:
1. Cause exists for termination for reasons listed in A1 through A7, of this section, and the Department determines that modification or revocation and reissuance is appropriate.
  2. The Department has received notification of a proposed transfer of the permit. A permit may also be modified to reflect a transfer after the effective date of an automatic transfer (General Condition G8) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee.

#### **G4. REPORTING PLANNED CHANGES**

The Permittee shall, as soon as possible, but no later than 60 days prior to the proposed changes, give notice to the Department of planned physical alterations or additions to the permitted facility, production increases, or process modification which will result in: 1) the permitted facility being determined to be a new source pursuant to 40 CFR 122.29(b); 2) a significant change in the nature or an increase in quantity of pollutants discharged; or 3) a significant change in the Permittee's sludge use or disposal practices. Following such notice, and the submittal of a new application or supplement to the existing application, along with required engineering plans and reports, this permit may be modified, or revoked and reissued pursuant to 40 CFR 122.62(a) to specify and limit any pollutants not previously limited. Until such modification is effective, any new or increased discharge in excess of permit limits or not specifically authorized by this permit constitutes a violation.

#### **G5. PLAN REVIEW REQUIRED**

Prior to constructing or modifying any wastewater control facilities, an engineering report and detailed plans and specifications shall be submitted to the Department for approval in accordance with Chapter 173-240 WAC. Engineering reports, plans, and specifications shall be submitted at

least 180 days prior to the planned start of construction unless a shorter time is approved by the Department. Facilities shall be constructed and operated in accordance with the approved plans.

**G6. COMPLIANCE WITH OTHER LAWS AND STATUTES**

Nothing in this permit shall be construed as excusing the Permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations.

**G7. DUTY TO REAPPLY**

The Permittee shall apply for permit renewal at least 180 days prior to the specified expiration date of this permit.

**G8. TRANSFER OF THIS PERMIT**

In the event of any change in control or ownership of facilities from which the authorized discharge emanate, the Permittee shall notify the succeeding owner or controller of the existence of this permit by letter, a copy of which shall be forwarded to the Department.

A. Transfers by Modification

Except as provided in paragraph B below, this permit may be transferred by the Permittee to a new owner or operator only if this permit has been modified or revoked and reissued under 40 CFR 122.62(b)(2), or a minor modification made under 40 CFR 122.63(d), to identify the new Permittee and incorporate such other requirements as may be necessary under the Clean Water Act.

B. Automatic Transfers

This permit may be automatically transferred to a new Permittee if:

1. The Permittee notifies the Department at least 30 days in advance of the proposed transfer date.
2. The notice includes a written agreement between the existing and new Permittee's containing a specific date transfer of permit responsibility, coverage, and liability between them.
3. The Department does not notify the existing Permittee and the proposed new Permittee of its intent to modify or revoke and reissue this permit. A modification under the subparagraph may also be minor modification under 40 CFR 122.63. If this notice is not received, the transfer is effective on the date specified in the written agreement.

**G9. REDUCED PRODUCTION FOR COMPLIANCE**

The Permittee, in order to maintain compliance with its permit, shall control production and/or all discharges upon reduction, loss, failure, or bypass of the treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the



situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

**G10. REMOVED SUBSTANCES**

Collected screenings, grit, solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall not be resuspended or reintroduced to the final effluent stream for discharge to state waters.

**G11. DUTY TO PROVIDE INFORMATION**

The Permittee shall submit to the Department, within a reasonable time, all information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Permittee shall also submit to the Department upon request, copies of records required to be kept by this permit.

**G12. OTHER REQUIREMENTS OF 40 CFR**

All other requirements of 40 CFR 122.41 and 122.42 are incorporated in this permit by reference.

**G13. ADDITIONAL MONITORING**

The Department may establish specific monitoring requirements in addition to those contained in this permit by administrative order or permit modification.

**G14. PAYMENT OF FEES**

The Permittee shall submit payment of fees associated with this permit as assessed by the Department.

**G15. PENALTIES FOR VIOLATING PERMIT CONDITIONS**

Any person who is found guilty of willfully violating the terms and conditions of this permit shall be deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to \$10,000 and costs of prosecution, or by imprisonment in the discretion of the court. Each day upon which a willful violation occurs may be deemed a separate and additional violation.

Any person who violates the terms and conditions of a waste discharge permit shall incur, in addition to any other penalty as provided by law, a civil penalty in the amount of up to \$10,000 for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be deemed to be a separate and distinct violation.

**G16. UPSET**

Definition – “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of the following paragraph are met.

A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that: 1) an upset occurred and that the Permittee can identify the cause(s) of the upset; 2) the permitted facility was being properly operated at the time of the upset; 3) the Permittee submitted notice of the upset as required in Condition S2.E; and 4) the Permittee complied with any remedial measures required under S3.C of this permit.

In any enforcement proceeding the Permittee seeking to establish the occurrence of an upset has the burden of proof.

**G17. PROPERTY RIGHTS**

This permit does not convey any property rights of any sort, or any exclusive privilege.

**G18. DUTY TO COMPLY**

The Permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

**G19. TOXIC POLLUTANTS**

The Permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

**G20. PENALTIES FOR TAMPERING**

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this Condition, punishment shall be a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or by both.

**G21. REPORTING ANTICIPATED NON-COMPLIANCE**

The Permittee shall give advance notice to the Department by submission of a new application or supplement thereto at least 180 days prior to commencement of such discharges, of any facility expansions, production increases, or other planned changes, such as process modifications, in the permitted facility or activity which may result in noncompliance with permit limits or conditions.

Any maintenance of facilities, which might necessitate unavoidable interruption of operation and degradation of effluent quality, shall be scheduled during non-critical water quality periods and carried out in a manner approved by the Department.

**G22. REPORTING OTHER INFORMATION**

Where the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

**G23. REPORTING REQUIREMENTS APPLICABLE TO EXISTING MANUFACTURING, COMMERCIAL, MINING, AND SILVICULTURAL DISCHARGERS**

The Permittee belonging to the categories of existing manufacturing, commercial, mining, or silviculture must notify the Department as soon as they know or have reason to believe:

- A. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following “notification levels:”
  - 1. One hundred micrograms per liter (100 µg/L).
  - 2. Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony.
  - 3. Five times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7).
  - 4. The level established by the Director in accordance with 40 CFR 122.44(f).
- B. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following “notification levels:”
  - 1. Five hundred micrograms per liter (500 µg/L).
  - 2. One milligram per liter (1 mg/L) for antimony.
  - 3. Ten times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7).
  - 4. The level established by the Director in accordance with 40 CFR 122.44(f).

**G24. COMPLIANCE SCHEDULES**

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.